

In the matter of
Highland Mining Company
Highland Mine
(Formerly Peabody Coal Company
Camp No. 1 Mine)
I.D. No. 15-02709

Petition for Modification

Docket No. M-1997-052-C

PROPOSED ORDER OF DISMISSAL

On April 7, 1997, Peabody Coal Company, (Now Highland Mining Company) filed a petition pursuant to 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. sec. 811(c), and 30 CFR 44 et seq., for the modification of the application of 30 CFR 75.362(d)(2), to it's Camp No. 1 Mine (Now Highland Mine) located in Union County, Kentucky. The Petitioner alleged that application of this standard would result in a diminution of safety to the miners and that the alternative method proposed in the petition will at all times guarantee no less than the same measure of protection afforded by the standard.

On December 17, 2003, the petitioner requested that the petition for modification be withdrawn and notified MSHA that the current mine operating company is in compliance with 30 CFR 75.362(b) and that no diminution of safety would result from withdrawal of the petition.

On December 22, 2003, a letter clarifying the previous request to withdraw the petition was received. The later letter correctly identified the standard which had been petitioned for modification as 30 CFR 75.362(d), stated that Highland Mining Company "complied with the standard and no diminution of safety has been noted", and requested the modification as a whole be withdrawn.

Therefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, Highland Mining Company's Petition for Modification of 30 CFR 75.362(d)(2) to its Highland Mine is dismissed.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44 within 30 days. The request for hearing must be filed with the Administrator for Coal Mine Safety and Health, 1100 Wilson Boulevard, Arlington, Virginia 22209-3939.

If a hearing is requested, the request shall contain a concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the proposed decision. A party other than Petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition, and any party to this action requesting a hearing may indicate a desired hearing site. If no request for a hearing is filed within 30 days after service thereof, the Order of Dismissal will become final.

Terry Bentley
Chief, Safety Division for
Coal Mine Safety and Health